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8
9 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
10 **FOR THE CEMETERY AND FUNERAL BUREAU**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. A1 2017 298

13 **CLAUDE M. BRYANT**
14 **5031 E. Dana Avenue**
15 **Stockton, CA 95215**

A C C U S A T I O N

16 **Cemetery Salesperson License No. CES**
47433

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Lisa M. Moore (Complainant) brings this Accusation solely in her official capacity as
22 the Bureau Chief of the Cemetery and Funeral Bureau (Bureau), Department of Consumer
23 Affairs.

24 2. On or about June 7, 2013, the Bureau issued Cemetery Salesperson License No. CES
25 47433 to Claude M. Bryant (Respondent). The Cemetery Salesperson License was in full force
26 and effect at all times relevant to the charges brought herein and will expire on June 30, 2019,
27 unless renewed.

28 //

JURISDICTION

3. This Accusation is brought before the Director of the Department of Consumer Affairs (Director) for the Bureau, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 7686 of the Code provides in pertinent part, that the Bureau may suspend or revoke a license, after proper notice and hearing to the licensee, if the licensee has been found guilty by the Bureau of any of the acts or omissions constituting grounds for disciplinary action.

STATUTORY PROVISIONS

5. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the grounds that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

6. Section 493 of the code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

7. Section 7709 states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this article. The bureau may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

8. Section 7711.1 of the Code states:

Unprofessional conduct by any licensee or registrant or by any agent or employee of

1 a licensee or registrant constitutes grounds for disciplinary action. Unprofessional
2 conduct includes, but is not limited to, the following:

3 (a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting
4 the violation of this chapter and any regulation adopted thereunder, or of any federal
5 or state law or regulation governing the disposition of human remains, operation of
6 cemeteries or crematories, the sale of cemetery property, or the sale of crematory
7 services or commodities.

8 (b) Negligence in performing any act related to the operation of a cemetery or
9 crematory.

10 9. Section 7711.2 of the Code states, in pertinent part:

11 The bureau may, upon its own motion, and shall, upon the verified complaint in
12 writing of any person, investigate the actions of any person engaged in the business
13 or acting in the capacity of a cemetery licensee, and may temporarily suspend or
14 permanently revoke a license at any time where the licensee, within the immediately
15 preceding three years, while a cemetery licensee in performing or attempting to
16 perform any of the acts specified in this act, has been guilty of any of the following:

17 (a) Making any substantial misrepresentation.

18 (b) Making any false statement of a character likely to influence or persuade.

19 ...

20 (i) Any other conduct, whether of the same or a different character than specified in
21 this section, which constitutes fraud or dishonest dealing.

22 (j) The misrepresentations and false statements mentioned in this section also include
23 misrepresentation and false statements as to other property than that which the
24 cemetery licensee may be selling or attempting to sell.

25 10. Section 7711.3 of the Code states in pertinent part:

26 The bureau may suspend or revoke the license of any cemetery licensee who, within
27 the immediately preceding three years, has done any of the following:

28 (a) Been convicted of a crime substantially related to the qualifications, functions,
and duties of such licensee. The record of conviction, or a certified copy thereof, shall
be conclusive evidence of such conviction.

29 REGULATORY PROVISIONS

30 11. California Code of Regulations, title 16, section 2330 states:

31 For the purposes of denial, suspension or revocation of a license pursuant to Division
32 1.5 (commencing with Section 475) of the Code, a crime or act shall be considered to
33 be substantially related to the qualifications, functions or duties of a cemetery broker
34 or salesperson if to a substantial degree it evidences present or potential unfitness of a
35 cemetery broker or salesperson to perform the functions authorized by his or her
36 license in a manner consistent with the public health, safety, or welfare. Such crimes
37 or acts shall include but not be limited to those involving the following:

38 (a) Conviction of a crime involving fiscal dishonesty.

1 (b) Any violation of the provisions of Chapter 19, Division 3 of the Code.

2 **COST RECOVERY**

3 12. Section 125.3, subdivision (a), states, in pertinent part: "Except as otherwise provided
4 by law, in any order issued in resolution of a disciplinary proceeding before any board within the
5 department . . . upon request of the entity bringing the proceeding, the administrative law judge
6 may direct a licentiate found to have committed a violation or violations of the licensing act to
7 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case."

8 **FIRST CAUSE FOR DISCIPLINE**
9 **(Conviction of a Substantially Related Crime)**

10 13. Respondent is subject to disciplinary action under Code sections 490 and 7711.3 (a)
11 in that he was convicted of a crime that is substantially related to the qualifications, functions,
12 and duties of a licensed cemetery salesperson. The circumstances follow:

13 a. On October 11, 2017, in a criminal proceeding entitled *The People of the State of*
14 *California vs. Claude Matthew Bryant* in Stanislaus Superior Court, Case No. 400039,
15 Respondent was convicted on his plea of nolo contendere to a violation of Penal Code section
16 487 (a) (grand theft), a misdemeanor.

17 b. The circumstances were that between January 31, 2014 and June 29, 2014,
18 respondent willfully, unlawfully, and feloniously took property of another of a value exceeding
19 \$950. While employed as a cemetery salesperson in California, Respondent was paid \$6,692.61
20 in commissions on fraudulent preneed policies.

21 **SECOND CAUSE FOR DISCIPLINE**
22 **(Misrepresentation and/or Fraud in the Conduct of Business)**

23 14. Respondent is subject to disciplinary action under Code section 7711.2 (a), (b), (i),
24 and (j) in that he admitted that he forged the signatures on twelve preneed contracts in order to
25 collect \$6,692.61 in commissions.

26 **PRAYER**

27 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
28 and that following the hearing, the Director of Consumer Affairs issue a decision:

1. Revoking Cemetery Salesperson License No. CES 47433, issued to Claude M. Bryant,;
2. Ordering Claude M. Bryant to pay the Cemetery and Funeral Bureau the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED:

August 27, 2018

Lisa M. Moore

LISA M. MOORE
Bureau Chief
Cemetery and Funeral Bureau
Department of Consumer Affairs
State of California
Complainant

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